REMARKS

In the Office Action dated September 29, 2003, claims 1-13 are pending, all claims are rejected and objection is made to claim 1.

Objection is made to the specifiçation in that the title allegedly is not descriptive. A new title is required. Applicants have amended the specification to submit a new title as requested by the Examiner.

Objection is made to Claim 1 because the term "in" in the last line of the claim appears twice. Claim 1 has been amended to correct this error.

Claims 1 and 5 are rejected under 35 U.S.C. §112, second paragraph, because the term "loss-proof" allegedly is not defined adequately. However, Applicants respectfully submit that the term "loss-proof" is clearly defined on page 7 of the description in the second paragraph. Accordingly, it would be readily understood by those skilled in the art that the term "loss-proof pressed in said bore" (of claim 1) means "retained in the bore so it cannot fall out".

Claims 4 and 6 are rejected under 35 U.S.C. §112, second paragraph, because the term "form-locking" allegedly is not defined adequately. However, Applicants respectfully submit that the term "form-locking" is clearly defined by the description of the application on page 8 in the 5th and the 6th paragraph. In the 5th paragraph it is

stated that "the bushing is received in form-locking manner in the bore". In the next paragraph it is explained that a "form-locking retainment" means "that the bushing is carried in the bore in a manner substantially free of play" (i.e. without clearance, thus, "form-locking").

In view of the above, it is respectfully submitted that the rejections under section 112 should be withdrawn.

Claims 1-11 are rejected under 35 U.S.C. §102(b) over Stoffer et al. (US 4,971,497). The Examiner concludes that the "wherein" statement in claim 1 is a functional statement and does not define any structure. Applicants strongly disagree. The language following "wherein" in claim 1:

> an inner surface of said bore and an outer surface of said bushing are formed to be about spherically curved, such that a region of largest diameter of said inner surface and said outer surface is situated between an upper edge and a lower edge of said bore, wherein said bushing is loss-proof pressed in said bore

is a clear **structural** definition of the bore and of the bushing. This language defines the structural relationship between an inner surface of the bore and an outer surface of the bushing.

Furthermore, Stoffer et al. ***fail*** to teach or suggest the the presently claimed invention in at least the following ways:

i) The hole in section 65 of Stoffer, which corresponds to the bore in claim 1 of the

invention, does not have an inner surface which is formed about spherically curved. The spherically curved surface 99 is a surface of the insert 90 but not an inner surface of the hole in section 65. Therefore, Stoffer et al. ***fail*** to teach or suggest a fastening assembly as claimed herein having "an inner surface of said bore... spherically curved".

ii) Although Stoffer et al. describe a fastener system for threadably attaching threaded member to a plate or a shell structure, Stoffer et al. ***fails*** to describe fastening a fixing element to a substructure. Section 65 is **not** a fixing element, as claimed herein, but instead is a structure to which a screw is fastened. The structure 65 corresponds more to the substructure than to the fixing element of the invention. Therefore, "a fastening assembly, comprising: a fixing element to be fastened to a substructure," as claimed herein, is not taught or suggested by Stoffer et al.

iii) According to Stoffer et al, the screw is screwed into the ball nut 83, which corresponds to the bushing in claim 1 of the present invention. In contrast to that, according to claim 1 of the invention, the screw is screwed into the substructure. Therefore, Stoffer et al. ***fails*** to teach or suggest "at least one bushing arranged in said at least one bore, through which said screw can be passed for screwing said screw into said substructure," as claimed in the present invention.

iv) In Stoffer et al., the ball nut 83, which corresponds to the bushing in claim 1 of the present invention, does not comprise a seat for at least a partial surface of the head of the screw. Therefore, Stoffer et al. ***fails*** to teach or suggest a "bushing further comprising a seat for at least partially receiving at least a partial surface of said head of said screw," as claimed in the present invention.

Furthermore, the present invention solves a different problem. The object of Stoffer et al. is to "provide a flush mounting fastener system for accommodating a threaded attaching member having an off-center, skewed or variable axis" (cf. col. 1, 1. 62-65). In contrast to Stoffer, the object of the invention is not to fasten a screw to a plate structure, but is to provide a fastening assembly for fastening a fixing element to a substructure.

Therefore, it is not seen how the present invention is anticipated, or would have been obvious to one of ordinary skill in the art in view of Stoffer et al.

The subject matter of claim 5 has been re-presented in new claim 14. According to Fig. 6 in which the fastening assembly according to claim 5 is shown, the bore 74 in the fixing element 78 does not have a spherically shaped inner surface. Therefore, new claim 14 is submitted to clarify this embodiment of the present invention.
Former claim 5 is rejected under 35 U.S.C. §102(b) over Stoffer et al. In claim 13, a "fixing element' is fastened to a "substructure". Stoffer et al. ***fails*** to teach or suggest this structure. To the contrary, Stoffer et al. describes a fastener system for a threadably attaching threaded member to a plate or shell structure (cf abstract, lines 1 and 2). There is no fixing element described in Stoffer et al.

Furthermore, as discussed above, Stoffer et al. does not teach that the ball nut

83 corresponding to the bushing of the present invention comprises a seat for at least partially receiving at least a partial surface of the head of a screw. Therefore, it is not seen how the invention of present claim 14 is anticipated, or would have been obvious to one of ordinary skill in the art in view of Stoffer et al.

All remaining claims being allowable, it is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. **04-1105**.

Respectfully submitted,

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George W. Neuner
Reg. No. 26,964
Edwards & Angell, LLP
P.O. Box 9169
Boston, MA 02209
(617) 439- 4444

Customer No. 21874